

THE MAIN ACT: REFORMING AUTO INSURANCE IN MICHIGAN BY NORMALIZING
COVERAGE REQUIREMENTS, REDUCING RATES, AND PROTECTING ACCIDENT VICTIMS

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ABSTRACT

Michigan's auto insurance rates are the highest in the United States. The state's unique no-fault insurance system requires drivers and insurance companies to pay for unlimited lifetime medical benefits for severely injured accident victims—a feature no other state employs. This system has guaranteed auto accident victims access to the highest levels of medical care and treatment but has also steadily increased cost burdens on Michigan's drivers. Along with these steadily increasing insurance costs has come a growing debate about the fairness of the law, its generous victim protections, and the sustainability of its benefit structure. Several attempts at reform have been made and rejected including numerous legislative proposals and a couple of voter-driven ballot initiatives. The debate over the law and its costs to Michigan's drivers has only continued to intensify as auto insurance fees and premiums continue to rise.

This capstone proposes and offers analysis on the prospect of changing the current unlimited lifetime benefit structure to a tiered system of personal injury protection. This new approach would expand driver choice by normalizing coverage requirements, lowering premiums, and still protecting accident victims by providing access to high levels of medical coverage while aligning the structure of the system with that of other states. Entitled the MAIN Act, the proposed reforms seek to achieve the balanced solution between lowering premiums and protecting benefits recent polling has indicated Michiganders are looking for in a solution to this growing policy problem.

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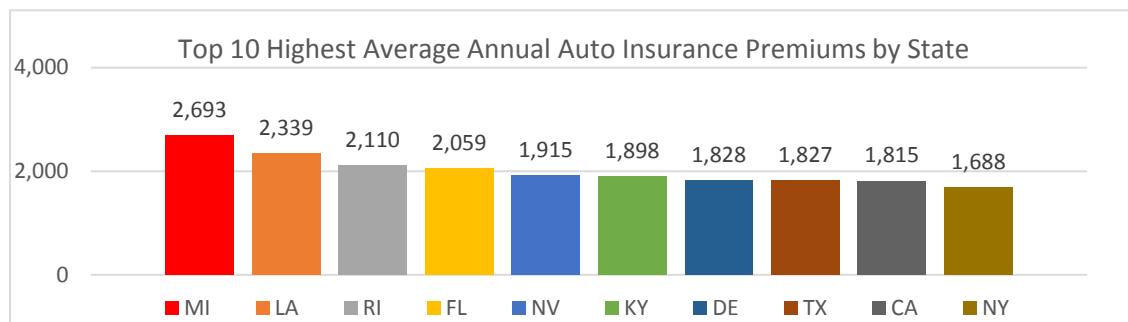
Date: May 7th, 2019
To: Governor Gretchen Whitmer
From: Justin Carlson
Subject: Auto Insurance Reform Memorandum

Action Forcing Event

On November 18, 2018, Crain's Detroit Business reported Dan Gilbert, billionaire founder of Quicken Loans, is threatening to fund a 2020 ballot initiative in order to force changes to Michigan's no-fault auto insurance to achieve rate reduction reforms if the incoming legislature is unable to resolve the issue in the first six months of 2019.¹

Statement of the Problem

Requirements under Michigan's no-fault auto insurance law have created conditions under which Michigan drivers suffer the highest car insurance costs in the country. According to the 2019 State of Auto Insurance Report, Michigan ranks 51st with an average annual auto insurance rate of \$2,693, lagging behind every single state and the District of Columbia.²



¹ Chad Livengood, "Gilbert may pursue auto insurance reform on 2020 ballot," Crain's Detroit Business, November 18, 2018, <https://www.crainsdetroit.com/insurance/gilbert-may-pursue-auto-insurance-reform-2020-ballot>

² The Zebra, "The State of Auto Insurance 2019," TheZebra.com, Accessed on February 14, 2019, <https://www.thezebra.com/state-of-insurance/auto/2019/#home>

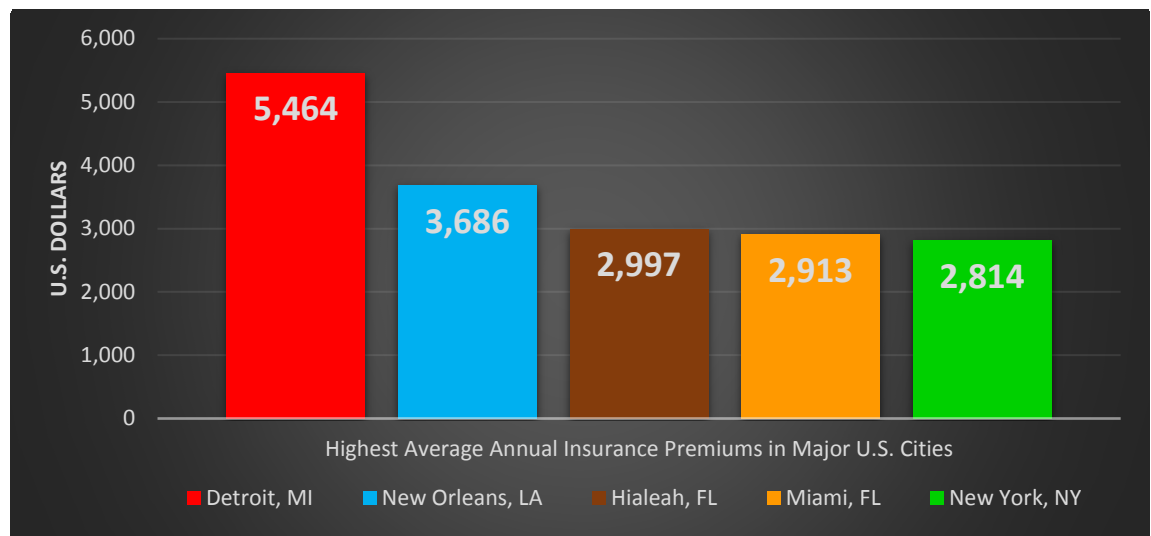
These statistics serve to highlight the magnitude of the problem Michigan has with auto insurance rates. Unfortunately, Michigan has historically and consistently had auto insurance rates among the highest in the country and this problem has only increased as the overall cost of auto insurance has increased nationwide in recent years. In fact, research from another study shows Michigan has had the highest rates for each of the past five years and, in the nine years this particular study has been conducted, the lowest Michigan ever ranked was 3rd highest in 2012.³ Clearly, Michigan has struggled with this problem for years and the impact it has on consumers only deepens as costs continue to increase over time.

Additionally, the high cost of auto insurance coverage in Michigan leads to greater numbers of uninsured drivers. According to data collected by the Insurance Information Institute, Michigan is among the top states for uninsured drivers with an estimated 20.3% of drivers lacking coverage.⁴ This is among the most significant side effects of consistently high auto insurance rates. Uninsured drivers increase costs for everyone else by pushing rates which are already extremely high even higher, further incentivizing greater numbers of people to risk driving without insurance, especially economically disadvantaged drivers. Studies have shown Michigan drivers with poor credit ratings often pay between 40-116% more for their insurance, resulting in what some analysts have called “legalized discrimination” against poor drivers in cities like

³ Mark Vallet, “Car insurance rates by state, 2018 edition,” Insured.com, October 11, 2018, <https://www.insure.com/car-insurance/car-insurance-rates.html>

⁴ Ibid

Detroit.⁵ Shockingly, Detroit's average annual auto insurance cost, as shown in the chart below, is \$5,464, which is more than twice the statewide average and almost four times the national average.⁶



As a result of the unaffordable costs for insurance in the city, many residents attempt to use addresses outside of the city limits to register their vehicles or, as an estimated 60% of Detroiters do, simply drive without insurance.⁷ These numbers highlight an unfair and unsustainable system.

The unique requirements of Michigan's no-fault law are largely responsible for creating the outrageously high costs seen throughout the state. Only the 12 states which currently use a no-fault system mandate insurance companies provide personal

⁵ Steven M. Gursten, "How do credit scores punish Detroit residents when paying for auto insurance?," MichiganAutoLaw.com, January 28, 2015, <https://www.michiganautolaw.com/blog/2015/01/28/credit-score-detroit-auto-insurance/>

⁶ The Zebra, "The State of Auto Insurance," TheZebra.com, Accessed on March 2, 2019, <https://www.thezebra.com/state-of-insurance/auto/2019/#home>

⁷ The Economist, "Why Detroit is the most expensive city in America to buy car insurance," The Economist, July 5, 2018, <https://www.economist.com/united-states/2018/07/05/why-detroit-is-the-most-expensive-city-in-america-to-buy-car-insurance>

injury protection (PIP) coverage to each insured driver, but Michigan's system is the only one which provides unlimited benefits to accident victims.⁸ By essentially guaranteeing unlimited lifetime medical benefits to accident victims, Michigan's no-fault law significantly increases the risk insurance companies must carry.⁹ Of course, increasing insurance companies' risk means increasing consumers' costs and this dynamic is clearly visible in the state's no-fault system. In Michigan, insurers must provide \$555,000 for a medical claim and any costs over that amount are paid for collectively by the state-created non-profit called the Michigan Catastrophic Claims Association (MCCA).¹⁰ Michigan law requires the MCCA charge an annual assessment fee (currently \$192, the highest rate in its history) on every insured vehicle in the state in an amount "that is sufficient to cover the lifetime claims of all persons expected to be catastrophically injured in that year" and adjusted "to compensate for excesses or deficiencies in earlier assessments."¹¹ This fluctuating fee serves to dramatically increase the annual cost of auto insurance for every Michigan driver. While the benefits allowed by Michigan's no-fault law are considered to be the best in the country for accident victims, the serious question remains whether or not the extremely high and often crippling consumer cost is worth the proverbial reward. Any attempts at reform should address the primary issue of reducing the overall cost to Michigan's drivers in order to bring the cost of auto

⁸ Matt Coffey, "What's Wrong With Michigan's No-Fault Auto Insurance," Mackinac Center for Public Policy, September 28, 2017, <https://www.mackinac.org/23982>

⁹ Mark Vallet, "Car insurance rates by state, 2018 edition," Insured.com, April 16, 2019, <https://www.insure.com/car-insurance/car-insurance-rates.html>

¹⁰ Ibid

¹¹ Michigan Catastrophic Claims Association, "Assessment Data," Michigan Catastrophic Claims Association, Accessed on February 14, 2019, <http://www.michigancatastrophic.com/ConsumerInformation/AssessmentData/tabid/103/Default.aspx>

insurance into conformity with the more reasonable standards and costs found in every other state in the nation, effectively “normalizing” Michigan’s auto insurance structure.

History & Background

In 1973, Michigan joined a multi-state effort to reform auto insurance laws in response to public criticism of the costly and inefficient tort system which required a determination to be made as to which party was legally at fault and, therefore, responsible for paying the costs incurred in auto accidents.¹² The no-fault reforms “allowed accident victims to recover such financial losses as medical and hospital expenses and lost income from their own insurance companies.”¹³ This shift away from the tort-based system was intended to reduce costs, speed up the benefit process, and reduce the need for lawsuits in order to recover the range of costs associated with auto accidents and their aftermath. In theory, this would be achieved by enabling drivers to recover costs directly from their insurance company rather than having to take another driver to court in order to recover accident, medical, disability, and other costs from their insurer. However, shortly after the multi-state push for no-fault, the laws began to fall out of favor and several states repealed their no-fault laws between the 1980s and early 2000s while still others, like Michigan, have tried and failed to repeal their law.¹⁴ The quick move to repeal no-fault laws was largely due to the fact that “many predicted

¹² Insurance Information Institute, “Background on: No-fault auto insurance,” November 6, 2018, <https://www.iii.org/article/background-on-no-fault-auto-insurance>

¹³ Ibid

¹⁴ Ibid

that the system would lower car insurance premiums — but the opposite ultimately occurred.”¹⁵ Michigan has clearly suffered the same ill-effects of the no-fault system and that has led to numerous attempts to force reforms or an outright repeal of the law. However, both reform and repeal attempts have proven difficult for policymakers.

In 1978, the Michigan Supreme Court upheld the no-fault law with the interesting caveat the mandatory auto insurance coverage would have to be available to the public at “fair and equitable prices.”¹⁶ This caused a new wrinkle in the no-fault law, explained by J.C. Reindl of the Detroit Free Press:

That ruling led to a territorial system that forbade insurers from charging rates that were less than 45% of the highest territory and imposed tighter rules for adjacent territories. But insurers argued the system forced non-city dwellers to pay higher rates to subsidize artificially low premiums in Detroit, where theft was higher... Then-Gov. John Engler ended the territorial rating system in 1996. Once those restrictions lifted, insurers began assigning ratings by ZIP code, a practice upheld by the state Supreme Court.¹⁷

The practice of factoring a person’s ZIP code into auto insurance rates has led to the aforementioned skyrocketing of the rates in the City of Detroit, where the statewide problem of high rates has been exacerbated by the high crime rates associated with the area. It has also resulted in the previously stated high rate of uninsured drivers in the city. The MCCA was also started in 1978 “to pay for the most serious and expensive auto injuries through an annual per-vehicle fee that auto insurers pass on to consumers...”¹⁸ As previously mentioned, the fee is currently the highest in the MCCA’s history at \$192

¹⁵ J.C. Reindl, “How Michigan got — and kept — no-fault auto insurance,” Detroit Free Press, May 7, 2017, <https://www.freep.com/story/news/local/michigan/2017/05/06/michigan-nofault-insurance-history-detroit/100301828/>

¹⁶ Ibid

¹⁷ Ibid

¹⁸ Ibid

per vehicle. All of these factors present in Michigan today are causing the high rates which currently afflict state's 7 million licensed drivers.¹⁹

During the 1990s, two attempts at reforming Michigan's no-fault law were brought to the public for a vote. The first one came in 1992 as The Michigan Auto Insurance Reform Initiative, which was then known as Proposal D, and the initiative was soundly rejected by 62.6% of voters.²⁰ Had it passed, Proposal D would have ended the Michigan-exclusive practice of guaranteeing unlimited lifetime benefits to accident victims by "capping coverage at \$250,000 while forcing insurers to reduce rates 20 percent."²¹ Despite the resounding rejection of changes to the no-fault law in 1992 another challenge came in 1994. The Michigan Auto Insurance Referendum (Proposal C), was a veto referendum initiated in response to Act 143 of 1993 and intended "to reduce auto insurance rates; place limits on personal injury benefits, fees paid to health care providers, and right to sue; and allow rate reduction for accident-free driving."²² Just like the 1992 attempt at reform it was rejected by 60.9% of voters.²³ Those large margins of public defeat caused politicians and activist groups to doubt public desire for changing the benefits associated with the no-fault law, especially through ballot-driven

¹⁹ Statista, "Total number of licensed drivers in the U.S. in 2017, by state," Statista.com, Accessed on March 3, 2019, <https://www.statista.com/statistics/198029/total-number-of-us-licensed-drivers-by-state/>

²⁰ Ballotpedia, "Michigan Auto Insurance Reform Initiative, Proposal D (1992)," Ballotpedia.com, Accessed on March 2, 2019,

[https://ballotpedia.org/Michigan_Auto_Insurance_Reform_Initiative,_Proposal_D_\(1992\)](https://ballotpedia.org/Michigan_Auto_Insurance_Reform_Initiative,_Proposal_D_(1992))

²¹ Johnathan Oosting and Melissa Nann Burke, "History not promising for possible Gilbert no-fault ballot plan," The Detroit News, February 11, 2019, <https://www.detroitnews.com/story/news/politics/2019/02/11/history-not-promising-gilbert-no-fault-ballot-plan/2794128002/>

²² Ballotpedia, "Michigan Auto Insurance Referendum, Proposal C (1994)," Ballotpedia.com, Accessed on March 2, 2019, [https://ballotpedia.org/Michigan_Auto_Insurance_Referendum,_Proposal_C_\(1994\)](https://ballotpedia.org/Michigan_Auto_Insurance_Referendum,_Proposal_C_(1994))

²³ Ibid

campaigns. Michigan-based Citizens Research Council President Eric Lupher explained the situation by saying, “The moral of the story, if you look at the history, is anything this complicated can’t be done through initiative. It’s just too complicated, and people vote against what they don’t understand.”²⁴ As a result, there have been no further ballot-driven attempts to alter the no-fault law in Michigan since the 1994 campaign despite the continuing widespread unpopularity of the law and steadily escalating cost of auto insurance over time.

Since the 1990s, there have been numerous legislative attempts to significantly alter or repeal the no-fault law but none have been successful. The latest push for reform occurred in 2017 and was orchestrated as a bipartisan effort by Detroit Mayor Mike Duggan (D) and then-House Speaker Tom Leonard (R). Under their proposal, Michiganders would be able to choose coverage based on the following options:

The \$250,000 PIP option: up to \$225,000 for emergency care, with \$25,000 then available for post-acute services such as physical therapy, surgeries, wage loss, transportation and attendant care. The \$500,000 PIP option: up to \$500,000 available for any use. The Unlimited PIP option: The same unlimited, lifetime benefits that exist now under no-fault. The seniors’ option: Those who are 62 or older and have lifetime health benefits, such as Medicare, can opt-out of buying any PIP.²⁵

The bill’s supporters claimed average drivers would save anywhere from 20-50% on their insurance premiums depending upon their other coverage choices, but no mandated price cut was included for those drivers who might choose to keep the

²⁴ Johnathan Oosting and Melissa Nann Burke, “History not promising for possible Gilbert no-fault ballot plan,” The Detroit News, February 11, 2019, <https://www.detroitnews.com/story/news/politics/2019/02/11/history-not->

²⁵ J.C. Reindl, “Is Michigan no-fault car insurance bill dangerous or a smart money-saver?,” Detroit Free Press, October 12, 2017, <https://www.freep.com/story/money/2017/10/12/no-fault-car-insurance-bill-michigan/730859001/>

unlimited benefit coverage.²⁶ Despite the bipartisan nature of the reform and the fact that the no-fault law would still essentially remain intact, the Michigan House ultimately voted down the measure 45-63 amid heavy outside pressures from a variety of interest groups which have been battling over the no-fault law for decades.²⁷ The latest failed effort to reform no-fault in Michigan once again put the issue front and center in the political process as the 2018 elections took place. With increased focus on the issue, new legal challenges and reform and repeal proposals are emerging from both sides of the political aisle.

Key Actors

One of the biggest names in the no-fault reform effort continues to be Detroit Mayor Mike Duggan. The Detroit Democrat came to the table with Republican House Speaker Tom Leonard in 2017 to present the aforementioned reform package to the legislature. Though defeated legislatively, Duggan has continued his hard push against the no-fault law by recently initiating a federal lawsuit to challenge its constitutionality, a move he believes is “ultimately the winning play.”²⁸ He may have good reason to be optimistic about the challenge since U.S. District Judge George Caram Steeh described the current state of Michigan’s auto insurance as “a shameful situation” before giving

²⁶ Ibid

²⁷ Kathleen Grey, “Michigan’s no-fault auto insurance reform defeated in House of Representatives,” Detroit Free Press, November 2, 2017, <https://www.freep.com/story/news/politics/2017/11/02/michigans-no-fault-auto-insurance-reform-defeated-house-representatives/825590001/>

²⁸ Chad Livengood, “Duggan: Lawsuit ‘winning play’ for reforming no-fault auto insurance law,” Crain’s Detroit Business, February 13, 2019, <https://www.crainsdetroit.com/insurance/duggan-lawsuit-winning-play-reforming-no-fault-auto-insurance-law>

the indication he wants the legislature to take action before he rules in the case.²⁹

Regardless of the lawsuit's outcome, Mayor Duggan is clearly convinced reforming no-fault is in the best interest of the City of Detroit and ultimately all Michiganders, even if it means repealing it entirely. His lawsuit asks the judge to overturn the original no-fault law and order Governor Whitmer and the legislature to fix the state's auto insurance law within six months, but if they should fail to do so, he has asked the judge to force Michigan back to the tort system.³⁰ While many political figures are concerned about returning to an insurance system which forces accident victims to engage in lawsuits in order to recover costs, Mayor Duggan expressed no such concerns as he proclaimed, "Going back to a tort system would be the best thing in the world for Detroiters."³¹ Mayor Duggan has made it clear one of his top priorities is to achieve no-fault reform by any means necessary and he continues to press the issue politically through the state legislature and legally through the court system.

Another major figure in this issue is billionaire Dan Gilbert, the founder of Quicken Loans, which is based in Detroit. He has threatened the use of a ballot initiative to force changes to the no-fault law if action is not undertaken by the legislature in the first six months of 2019. His intention is clearly to pressure the political leadership in Lansing to get a bipartisan deal done which alleviates the high cost crisis currently facing the state. Given the voter's previously documented reluctance to reform the no-fault law through a ballot initiative, the Gilbert effort may fall victim to the same fate as the

²⁹ Ibid

³⁰ Ibid

³¹ Ibid

ballot proposals of twenty-five years ago. However, the steadily increasing costs of the past several decades may prove to be a catalyst for reform. In order to aid his threatened ballot campaign and lobby legislators for reforms, Gilbert hired former House Speaker Tom Leonard as a consultant and strategist.³² According to the report, “Quicken Loans has hired Leonard to help build the legislative coalition needed to fulfill Gilbert's goal of overhauling Michigan's no-fault auto insurance law.”³³ The addition of former Speaker Leonard to the Gilbert reform effort means he'll have someone recently departed from the legislature and still well-connected with the legislative and lobbying powerbrokers in Lansing. According to the Michigan Campaign Finance Network (MCFN), Quicken Loans spent \$236,197 on lobbying efforts in 2017.³⁴

Additionally, there are some influential interest groups in favor of making changes to Michigan's insurance laws. The Michigan Chamber of Commerce is tepidly in favor of some changes but opposes a complete repeal of the no-fault law. From their website:

The Michigan Chamber supports the preservation of Michigan's no-fault automobile insurance law, including the prompt payment of benefits in exchange for strict limitations on the right to sue an at-fault party for non-economic damages (i.e., pain and suffering). Specifically, we support legislation to address insurance fraud and the over utilization of benefits. We also support efforts to curb discretionary billing practices by providers, bringing the cost of medical services to auto accident patients in line with payments to other patients (e.g., a fee schedule or tied to rates paid by health insurers).³⁵

³² Chad Livengood, “Gilbert hires ex-Michigan House Speaker Leonard as strategist,” Crain's Detroit Business, February 3, 2019, <https://www.craindetroit.com/politics/gilbert-hires-ex-michigan-house-speaker-leonard-strategist>

³³ Ibid

³⁴ Michigan Campaign Finance Network, “The Top 200 Lobbyists For 2017 Jan. 1-Dec. 31,” MCFN.org, Accessed on March 4, 2019, <http://mcfn.org/node/6818/pdf-the-top-200-lobbyists-for-2017-jan-1-dec-31>

³⁵ Michigan Chamber of Commerce, “No-Fault Auto Insurance Reform,” Michamber.com, Accessed on March 3, 2019, <https://www.michamber.com/auto-nofault>

The Chamber's highly nuanced stance is reflective of the delicate nature of the reform debate, with many people in favor of reform unwilling to commit to scrapping the generous lifetime benefit system entirely. The Chamber does, however, acknowledge the primary problem of high cost of auto insurance by adding, "While many would label Michigan's no-fault system's medical benefits as 'the best in the nation,' it is clear that cost of coverage is a real issue, as well as a general business and competitiveness issue for Michigan."³⁶

Another group with a vested interest in reform is the Insurance Alliance of Michigan. It's a new group formed by the merger of the Michigan Insurance Federation and Insurance Institute of Michigan and their "purpose is to serve the Michigan insurance industry and the insurance consumer as the key resource for legislative and public information on property/casualty insurance issues."³⁷ The Alliance is in favor of significant reforms and "supports Duggan's effort to overhaul no-fault," although they would prefer a legislative solution as opposed to the lawsuit initiated by Mayor Duggan.³⁸ Obviously, the Alliance represents a significant lobbying presence in favor of reforming Michigan's no-fault law and its influence is a significant consideration for

³⁶ Ibid

³⁷ Insurance Alliance of Michigan, "About Us," [Insurancealliancemichigan.org](https://www.insurancealliancemichigan.org/about-us), Accessed on March 3, 2019, <https://www.insurancealliancemichigan.org/about-us>

³⁸ J.C. Reindl, "Here's what Mike Duggan's up against in court fight against no-fault," Detroit Free Press, February 6, 2019, <https://www.freep.com/story/money/business/2019/02/06/mike-duggan-no-fault-insurance/2776794002/>

many lawmakers in Lansing. According to State of Michigan lobbying reports, the Alliance spent \$14,249.53 in total lobbying expenses for 2018.³⁹

There are also a couple prominent groups opposed to changing the no-fault law in any way which reduces the best-in-the-nation unlimited lifetime medical benefits. One of the largest and most prominent organizations opposed to reforms is the Coalition Protecting Auto No-fault (CPAN). The Coalition “was formed in 2003 by 26 professional associations who shared the strongly held belief that it was in the public interest to preserve Michigan’s model no-fault auto insurance system...” and keep the original mandate of the no-fault law intact.⁴⁰ CPAN is an expansive group of major lobbying interests throughout Michigan, including what it calls “Medical Groups” and “Consumer Groups” which comprise a wide range of interests from medical providers to patient advocates to trial lawyers.⁴¹ According to their 2017 Annual report, CPAN reported an all-time high in organizational income from membership, donations, and fundraising efforts to a total of \$561,000, of which it spent nearly half on legislative consulting, public awareness, meetings, and events.⁴² CPAN is a growing and widely influential group in Lansing representing diverse and compelling interests in the no-fault debate.

³⁹ Department of State, “Registered Lobbyist/Lobbyist Agent Search,” Michigan.gov, Accessed on March 4, 2019 https://miboecfr.nictusa.com/cgi-bin/cfr/lobby_srch_res.cgi

⁴⁰ Coalition Protecting Auto No-fault, “Our History,” Protectnofault.org, Accessed on March 4, 2019 <https://protectnofault.org/blog/>

⁴¹ Ibid

⁴² Coalition Protecting Auto No-fault, “2017 Annual Report,” Protectnofault.org, Accessed on March 4, 2019, <https://protectnofault.org/annual-reports/>

The Michigan Health and Hospital Association (MHA) is another large advocacy group generally opposed to no-fault auto insurance reforms. According to their website, the association “is the statewide leader representing all community hospitals in Michigan... represents the interests of its member hospitals and health systems in both the legislative and regulatory arenas on key issues and supports their efforts to provide quality, cost-effective and accessible care.”⁴³ The organization strongly opposes drastic changes to the current no-fault law because “without it, auto accident victims would not be able to afford the extensive care they require after traumatic injuries.”⁴⁴ The MHA does, however, state it is “open to participating in the political process and discussing reforms to the system,” but concludes the Association’s members believe the law is about caring for patients and they will strongly defend accident victims’ access to care.⁴⁵ The MHA maintains a powerful presence in the state capitol. According to the MCFN, the organization spent more than a million dollars on lobbying activities over the course of 2016 and 2017, placing it among the top ten lobbying groups in Lansing.⁴⁶ The group maintains significant influence over the no-fault reform issue.

Michigan’s no-fault law clearly has a substantial amount of backers and opponents. Given the rising costs associated with auto insurance across the state, most groups are willing to take a serious look at reform and may be open to adopting the

⁴³ Michigan Health and Hospital Association, “About,” MHA.org, Accessed on March 4, 2019, <https://www.mha.org/About>

⁴⁴ Michigan Health and Hospital Association, “Auto No-Fault Insurance,” MHA.org, Accessed on March 4, 2019, <https://www.mha.org/Issues-Advocacy/Auto-No-Fault-Insurance>

⁴⁵ Ibid

⁴⁶ Michigan Campaign Finance Network, “The Top 200 Lobbyists For 2017 Jan. 1-Dec. 31,” MCFN.org, Accessed on March 4, 2014, <http://mcfn.org/node/6818/pdf-the-top-200-lobbyists-for-2017-jan-1-dec-31>

right reforms if they can be sold on their merits. With the stark divisions between the sides involved in the debate and the fact that Michigan now has politically divided government, it is abundantly clear no reforms will be enacted without broad bipartisan support. Without a comprehensive solution, any attempt at reform is likely to suffer the same fate as the numerous failed reforms of the past forty years. The big difference now could be shifting attitudes among the state's residents. A 2017 survey conducted by the Insurance Alliance of Michigan found 72% of respondents were in favor of reforming the no-fault law, 79% favored reforms to reduce the price of premiums, and 76% favored changing Michigan's mandated unlimited lifetime medical benefits.⁴⁷ Inversely, a 2018 poll conducted by the Coalition Protecting Auto No-fault found "strong support" for the system's benefits with 65% of likely voters rejecting any plan to eliminate or limit no-fault's unlimited medical benefits while another 56% "believe rates should not be slashed at the expense of accident victims."⁴⁸ That same poll, however, indicated two-thirds of respondents favored the Duggan-Leonard plan because it protected benefits and would potentially reduce rates.⁴⁹ These shifting public attitudes indicate significantly more public support for bipartisan no-fault reforms than during the prior ballot-measure rejections of the 1990s, a factor which could be key to finally addressing one of Michigan's top public policy problems. Michiganders are making it clear they

⁴⁷ Julie Mack, "Big majority of Michiganders want auto insurance reform, poll shows," MLive.com, June 9, 2017, https://www.mlive.com/news/2017/06/big_majority_of_michiganders_w.html

⁴⁸ Michigan State Medical Society, "News & Media," MSMS.org, October 9, 2018, <https://www.msms.org/About-MSMS/News-Media/new-poll-reveals-majority-of-michigan-residents-support-protecting-auto-no-fault-benefits-cracking-down-on-insurance-companies-discriminatory-practices>

⁴⁹ Ibid

would consider a plan which normalizes coverage with other states, lowers premiums, and maintains access to high levels of medical benefits to protect accident victims.

Policy Proposal

Authorization Tool & Framework

In order to achieve lower auto insurance rates for Michigan's drivers, the legislature must pass a law modifying the Insurance Code of 1956 and its subsequent amendments relating to the no-fault provisions and Michigan Catastrophic Claims Association (MCCA) added in the 1970s.⁵⁰ In order to realistically achieve the goal of significant rate reductions, the mandatory unlimited lifetime personal injury protection (PIP) benefits administered through the MCCA must be capped, as is the case in every other state in the country. The Michigan Auto Insurance Normalization (MAIN) Act proposes the following changes:

- The MCCA and its \$192 assessment fee will be eliminated by imposing new tiered and capped PIP requirements of \$25,000, \$50,000, \$100,000, \$200,000, or \$300,000 optional to each driver.
- These new PIP cap amounts include several coverage levels which meet or significantly exceed the highest mandated minimum PIP insurance requirement in all other states, New York's \$50,000.⁵¹
- The \$300,000 option maintains Michigan's status as the best in the nation for accident victims, surpassing New Jersey's \$250,000 PIP cap.⁵²
- For PIP claims exceeding \$300,000, the restrictions on litigation imposed by the original no-fault law will be lifted, allowing victims to litigate for additional compensation.

⁵⁰ Michigan Legislature, "The Insurance Code of 1956," [Legislature.mi.gov](http://www.legislature.mi.gov/(S(g2e4jj4raxausxjfn05ylm12))/mileg.aspx?page=getObject&objectName=mcl-Act-218-of-1956), Accessed on March 16, 2019, [http://www.legislature.mi.gov/\(S\(g2e4jj4raxausxjfn05ylm12\)\)/mileg.aspx?page=getObject&objectName=mcl-Act-218-of-1956](http://www.legislature.mi.gov/(S(g2e4jj4raxausxjfn05ylm12))/mileg.aspx?page=getObject&objectName=mcl-Act-218-of-1956)

⁵¹ Value Penguin, "What is Personal Injury Protection (PIP) Car Insurance and Should You Have It?," [Valuepenguin.com](http://www.valuepenguin.com/personal-injury-protection-car-insurance#nogo), Accessed on March 17, 2019, <https://www.valuepenguin.com/personal-injury-protection-car-insurance#nogo>

⁵² Value Penguin, "How Does Personal Injury Protection (PIP) Work in New Jersey?," [Valuepenguin.com](http://www.valuepenguin.com), Accessed on April 25, 2019, <https://www.valuepenguin.com/car-insurance/how-pip-works-new-jersey>

- Insurers will make contributions to a new investment fund, the Catastrophic Claims Continuation Fund (CCCCF), in order to finance and grandfather existing claims for lifetime benefits until those claims terminate. Insurers will not be permitted to assess their required fund contributions onto consumers' auto insurance premiums.
- No future claims for lifetime benefits can be made after the effective date of enactment of this proposal on January 1st, 2020.

This proposal would universally reduce insurance costs, protect access to the most generous PIP benefit options in the nation, likely reduce the high number of uninsured drivers, and finally allow Michigan to normalize its auto insurance structure by bringing its premiums and benefits more closely in line with every other state in the country.

Implementation Process

The Michigan Department of Insurance and Financial Services (MDIFS), the current oversight mechanism for the MCCA, will oversee these changes.⁵³ The primary concern of the new requirements will be separating the operating fund of the MCCA into a new sustaining fund for the newly-enacted Catastrophic Claims Continuation Fund (CCCCF). This process will be observed by the Director of the MDIFS and completed by the current members of the MCCA, "of which every insurance company that sells automobile or motorcycle coverage in Michigan is required to be a member."⁵⁴ This process will ensure existing victims' claims for lifetime benefits under Michigan's old requirements will continue to be funded until the natural termination of those claims in the future. Because the future liabilities of the insurers will be significantly reduced by capping PIP levels at a potential maximum of \$300,000 per driver instead of an

⁵³ Michigan Catastrophic Claims Association, "MCCA Background," [Michigancatastrophic.com](http://www.michigancatastrophic.com), Accessed on March 17, 2019, <http://www.michigancatastrophic.com/About/MCCABackground/tabid/98/Default.aspx>

⁵⁴ Ibid

unlimited dollar amount per driver and most drivers likely choosing lesser amounts of coverage, insurers will be required to make their contributions to the CCCF without assessing those costs to consumers as they currently do with the MCCA fee. This regulatory enforcement mechanism seeks to ensure better long-term fairness to Michigan drivers, accident victims, and insurance companies.

Costs

Because the MCCA is a private, non-profit association of every auto insurer in Michigan, the act of eliminating it should not incur any costs to taxpayers. The creation of the CCCF and new rules governing insurer contributions may result in temporarily elevated costs to private insurers, but those costs should be made up in the long-term due to the new PIP coverage cap. The money the MDIFS currently spends overseeing the MCCA would simply be transferred to overseeing the creation of the new CCCF and the enforcement of the new regulatory rules concerning insurers' contributions to the fund. Because the MCCA already operates an investment fund, the existing fund can simply be renamed to accommodate its new purpose instead of creating an entirely new fund. Essentially, while the MCCA dissolves, the old fund would be maintained under the new CCCF name until its approximately 18,000 open claims terminate in the future.⁵⁵

The MCCA currently holds assets of \$20.6 billion with \$23.5 billion in liabilities, but estimates it will need \$70 billion (anticipating \$47 billion in investment income) to cover the 18,000 current claimants' expenses over the course of the next 50-70 years

⁵⁵ Michigan Catastrophic Claims Association, "Claim Statistics," [Michigancatastrophic.com](http://www.michigancatastrophic.com), Accessed on March 17, 2019, <http://www.michigancatastrophic.com/ConsumerInformation/ClaimStatistics/tabid/106/Default.aspx>

since the age of some claimants is very young.⁵⁶ This proposal's PIP cap will mitigate those costs so Michigan drivers no longer bear the burden of funding these lifetime benefit claims and insurers can recover enough money from their collective investment fund contributions to pay the claims to their natural termination point without incurring financial losses. This ensures stable continuous funding for those existing claims and guarantees the victims catastrophically injured under the old insurance law would not see their promised benefits taken away from them.

Policy Analysis

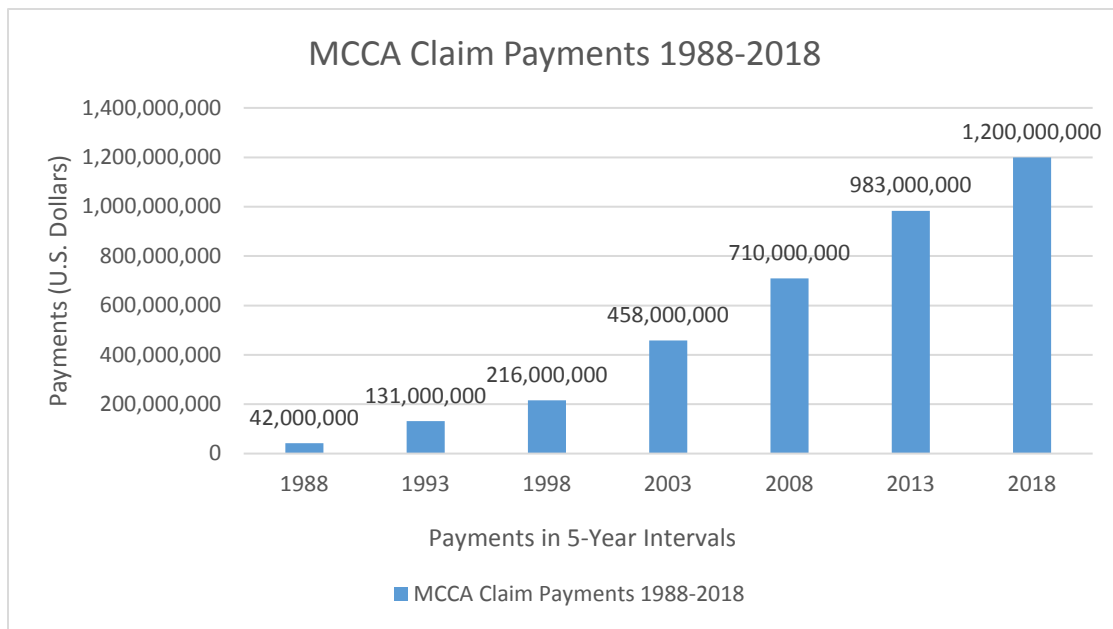
Advantages

The primary advantage of the proposed reforms is the direct lowering of insurance premiums by virtue of the new PIP coverage cap. Michigan's unlimited PIP coverage requirement, the only such requirement in the nation, is a primary driver of both high rates and the necessity of the MCCA to fund unlimited lifetime benefit claims. As they do each year, the insurance companies which comprise the membership of the MCCA have announced yet another fee assessment adjustment in their annual fee for the purpose of covering catastrophic claims. The fee is set to increase on July 1st from its already record high level of \$192 per vehicle to \$220.⁵⁷ Again, this fee is assessed solely for the purpose of covering the costs of the current catastrophic claims in the system. By

⁵⁶ Chad Livengood, "Why the \$20 billion catastrophic auto injuries fund can't be raided for road repairs," Crain's Detroit Business, March 13, 2019, <https://www.craisdetroit.com/voices-chad-livengood/why-20-billion-catastrophic-auto-injuries-fund-cant-be-raided-road-repairs>

⁵⁷ Paul Egan, "Fund hikes Michigan auto insurance fee by double digits, Whitmer orders audit," Detroit Free Press, March 27, 2019, <https://www.freep.com/story/news/local/michigan/2019/03/27/auto-insurance-michigan-catastrophic-claims-fund/3292060002/>

placing a cap on PIP requirements and eliminating the need for the MCCA altogether, all Michigan drivers would instantly see a guaranteed reduction of at least \$220 dollars on their annual insurance costs per vehicle. Without this reform, the MCCA fee is likely to continue increasing over time in order to cover the nearly \$4 billion deficit the MCCA claims it currently has.⁵⁸ The progressive increase in the claim payments made by the MCCA is staggering, increasing from \$42 million in 1988 to an astronomical \$1.2 billion in 2018, and is likely to continue its escalating trend without reform to the current system as shown in this chart:⁵⁹



According to the head of the MCCA Kevin Clinton, capping the PIP requirement about 20% under the current level of \$555,000 would “eliminate” their current funding

⁵⁸ Ibid

⁵⁹ Michigan Catastrophic Claims Association, “Payment Distribution Chart,” [Michigancatastrophic.org](http://www.michigancatastrophic.org), Accessed on March 31, 2019, <http://www.michigancatastrophic.com/ConsumerInformation/ClaimStatistics/tabid/106/Default.aspx>

deficit and the current charges its insurers have to pass on to drivers.⁶⁰ Therefore, it is reasonable to assess the nearly 46% total cut and cap on Michigan's current PIP coverage requirement proposed here would eliminate the need for the MCCA and its annual fee, as well as significantly reduce auto insurance costs even further than just eliminating the cost of the annual MCCA fee.

Another advantage of these proposed changes to Michigan's auto insurance system is the "normalization" of the state's insurance system with other states. The fact that Michigan's is the only system with unlimited lifetime benefits for crash victims has been shown to be a major driver in the state's highest-in-the-nation auto insurance rates, a potential roadblock to basic economic development. Some major Michigan business people, including Quicken Loans' Dan Gilbert, have been "arguing the high cost of auto insurance in Michigan is a deterrent to economic development and attracting new residents to the state."⁶¹ The aforementioned outrageous costs of auto insurance in major cities like Detroit likely does play a role in limiting economic growth in certain areas or, at least, dissuades some people from moving into or even investing in these particular areas. By placing a cap on PIP coverage like other states, Michigan can be in better position to manage its auto insurance costs. Outside of Michigan, New York has the next highest minimum PIP requirement at \$50,000 and New Jersey has the next highest PIP coverage cap at \$250,000, yet both of their average annual auto insurance

⁶⁰ Chad Livengood, "Why the \$20 billion catastrophic auto injuries fund can't be raided for road repairs," Crain's Business Detroit, March 13, 2019, <https://www.crainsdetroit.com/voices-chad-livengood/why-20-billion-catastrophic-auto-injuries-fund-cant-be-raided-road-repairs>

⁶¹ Chad Livengood, "Gilbert may pursue auto insurance reform on 2020 ballot," Crain's Business Detroit, November 18, 2018, <https://www.crainsdetroit.com/insurance/gilbert-may-pursue-auto-insurance-reform-2020-ballot>

rates are more than \$1,000 less than Michigan's \$2,693.⁶² Clearly, bringing a PIP cap to Michigan's system has the potential to both normalize and significantly reduce auto insurance rates across the board throughout the state.

This greater economic impact of auto insurance reform is one Michigan must consider. A recent report by the Michigan Association of United Ways found a stunning 43% of all Michigan households are now classified as "working poor."⁶³ According to the study, these 1.7 million ALICE (asset-limited, income-constrained, employed) workers are defined as earning less than \$61,272 per year for a family of four or \$21,036 per year for a single adult and "fail to afford the basic needs of housing, child care, transportation, health care, technology and food."⁶⁴ This study highlights the economically disruptive nature of continuously rising auto insurance costs in a state which already has millions of residents struggling to meet their basic needs. Coupling this data with the difficult realities of Michigan's deteriorating infrastructure, the currently proposed fix for which is nearly tripling the state's gas tax, Michigan is facing a situation of increasing costs of living many of its residents simply cannot afford.⁶⁵

Additionally, a subsidiary benefit of these proposed reforms would be the increase in freedom associated with removing the mandated unlimited PIP coverage

⁶² The Zebra, "State of Auto Insurance 2019," Thezebra.com, Accessed on March 31, 2019, <https://www.thezebra.com/state-of-insurance/auto/2019/#full-report>

⁶³ Dustin Walsh, "Michigan's working poor grows to 43 percent of all households," Crain's Business Detroit, March 20, 2019, <https://www.crainsdetroit.com/news/michigans-working-poor-grows-43-percent-all-households>

⁶⁴ Ibid

⁶⁵ Jim Malewitz, Mike Wilkinson, "Gretchen Whitmer's plan to fix Michigan roads: Nearly triple gas tax," Bridge Magazine, March 4, 2019, <https://www.bridgemi.com/public-sector/gretchen-whitmers-plan-fix-michigan-roads-nearly-triple-gas-tax>

level of \$555,000 and beyond subsidized by fees through the MCCA and replacing it with a tiered system which allows drivers realistic and reasonable options for coverage levels which suit their individual needs. Allowing drivers to choose their level of PIP coverage up to a reasonable capped amount brings more driver-specific control to their own cost levels, increasing the personal freedom in auto insurance which was taken away with the no-fault law's mandatory coverage requirements and unlimited benefit guarantee.⁶⁶ With many Michiganders already feeling squeezed by other high costs associated with living in the state, giving people the ability to choose their coverage level allows them to better budget for themselves based on what they can afford and will bring down costs for everyone without sacrificing access to high levels of medical benefits.

Finally, by eliminating the need for the MCCA through these reforms, the oversight resources and mechanisms already in place in the Michigan Department of Insurance and Financial Services could simply be redirected to the oversight of the newly created Catastrophic Claims Continuation Fund. The purpose of this new fund would be to ensure the existing investment fund which is currently part of the MCCA would stay funded until the last lifetime claims are paid out in the future. This would ensure accident victims injured under the current law would not have their lifetime benefits reduced or revoked, fulfilling the ethical obligations Michigan had made to these victims through the original law. Further, because the MDIFS would no longer have to oversee the entire MCCA and its operations as an organization and instead only

⁶⁶ Value Penguin, "What is Personal Injury Protection (PIP) Car Insurance and Should You Have It?," Valuepenguin.com, Accessed on March 31, 2019, <https://www.valuepenguin.com/personal-injury-protection-car-insurance#nogo>

oversee the maintenance of a single investment fund, it is likely current state-incurred costs of MCCA oversight would be significantly reduced, potentially saving Michigan taxpayers even more money over time.

Disadvantages

A significant disadvantage of the proposed reforms is the future elimination of the unlimited lifetime benefits under the current system. According to their latest report, the MCCA says 17,751 claims for lifetime benefits remain open.⁶⁷ While this proposal does honor these existing claims and commit to paying them in-full, these lifetime benefits would no longer be available to new accident victims after the effective date of this proposal. Since the inception of the MCCA in July of 1978, some 40,715 benefit claims have been administered through the MCCA which have totaled \$17.2 billion in medical benefit payments.⁶⁸ By eliminating the lifetime benefits available under the current system, any catastrophically injured accident victims after January 1st, 2020 would now see their benefits limited by the amount of PIP coverage they choose under the new system up to a potential maximum of \$300,000. Furthermore, some of these newly injured victims will now have to engage in litigation to recover higher benefit amounts from at-fault drivers, as is the case in 38 states which use a tort-based insurance systems and even some of the 12 states with some variation of a no-fault system.⁶⁹

⁶⁷ Michigan Catastrophic Claims Association, "Press Releases," [Michigancatastrophic.com](http://www.michigancatastrophic.com), March 27, 2019, <http://www.michigancatastrophic.com/PressReleases/tabid/114/Default.aspx>

⁶⁸ Ibid

⁶⁹ CarInsurance.com, "What is a tort state?," [Carinsurance.com](http://www.carinsurance.com), September 30th, 2016, <https://www.carinsurance.com/tort-states.aspx>

While no-fault states generally have a reputation as high-rate states and tort states are thought of as having lower rates, data shows this perception is not necessarily the case in reality. Ranked 51st out of all states and the District of Columbia, Michigan has the highest average annual auto insurance rates in the country, but the next no-fault state listed is Florida, ranking 48th with an incredible 30% lower rate than Michigan.⁷⁰ Interestingly, two tort states separate Michigan and Florida, which clearly indicates tort states do not automatically mean significantly lower rates, but it should also be noted nine of the top ten cheapest insurance states are tort states.⁷¹ The bigger takeaway from this data is the fact that Michigan's exclusive uncapped and unlimited lifetime benefits system seems to be the primary driver of its high rates rather than the fact it is a no-fault state. Under this proposal, no-fault provisions would remain, but after January 1st, 2020 any new critically injured accident victims will no longer have access to the lifetime benefits of the current system and will therefore be burdened with recovering the costs of their care through litigation, health insurance, assistance programs, charities, or other means.

Another disadvantage of adopting these changes is the prospect that the ultimate goal of rate reductions may be possible without so drastically amending the current system or eliminating its lifetime benefits at all. A number of alternative methods may be able to produce the same desired result, including implementing better consumer protection laws in Michigan. A recent study of auto insurance rate-

⁷⁰ The Zebra, "State of Auto Insurance 2019," Thezebra.com, Accessed on April 12, 2019, <https://www.thezebra.com/state-of-insurance/auto/2019/#full-report>

⁷¹ Ibid

setting practices in Michigan found insurers to be “using nondriving-related factors such as occupation, level of education, and home ownership status to set rates, and that these factors can increase a driver's premium by as much as 18 percent.”⁷² For some Michigan drivers, that can mean paying an additional \$1,000 every year for factors which have nothing to do with their vehicle or driving habits.⁷³ Doug Heller, who authored the study, found Michigan would save \$4 billion annually in auto insurance premiums by adopting the same consumer protection measures as California, which he says “helped California achieve the lowest price increases in the nation, with premiums increasing a mere 12.5 percent over the last 30 years.”⁷⁴ The proposed reforms here do not address the situation of consumer protection practices, but there is strong evidence to suggest bolstering those protections could result in meaningful and significant reductions in auto insurance rates in Michigan without sacrificing any aspect of its generous lifetime benefit system.

The proposed reforms could also have an unintended consequence with significant ramifications for the health and hospital industry in Michigan. As previously mentioned, Michigan’s health and hospital groups are powerful lobbying interests in Lansing and are strongly opposed to any changes in the lifetime benefits under current law. According to CPAN, a proposal “which eliminates lifetime coverage for auto accident injuries and drastically reduces medical provider reimbursement rates, will

⁷² John Prosser III, “Better consumer protection will lower auto insurance rates,” Crain’s Business Detroit, March 31, 2019, <https://www.crainsdetroit.com/crains-forum/john-prosser-iii-better-consumer-protection-will-lower-auto-insurance-rates>

⁷³ Ibid

⁷⁴ Ibid

significantly diminish revenue to that sector of Michigan's economy, thereby precipitating a loss of jobs and an impairment of Michigan's economic growth."⁷⁵ Hospitals, clinics, rehabilitation centers, and other health institutions make significant amounts of money on Michigan's benefits to crash victims. By eliminating those lifetime benefits, this proposal does risk causing financial issues for the health and hospital sector in Michigan. Out of the \$1.2 billion in MCCA claim payouts in 2018, 76% of the costs—some \$911 million—went to health and hospital related entities.⁷⁶ While these facilities would still be treating accident victims for their injuries, some of their revenues stemming from the unlimited lifetime structure under current law would likely be lost to the proposed changes and could potentially result in some layoffs, closures, or other undesirable effects on the health and hospital sector of Michigan's economy.

Political Analysis

Proponents

Public support for auto insurance reform in Michigan is perhaps higher than it has ever been, lending a great deal of political appeal to the prospect of successfully reforming it. A poll conducted in June of 2017 by a pro-insurance group showed 72% of Michiganders supported reforming the state's no-fault insurance law and 76% supported changing the lifetime benefits system unique to Michigan's law.⁷⁷ A recent

⁷⁵ Coalition Protecting Auto No-fault, "SB 1014 (H-1) 10 Reasons to Just Say "NO"," Protectnofault.org, December 18, 2018, <https://protectnofault.org/2018/12/18/sb-1014-ten-reasons-to-just-say-no/>

⁷⁶ Michigan Catastrophic Claims Association, "Press Releases," Michigancatastrophic.com, March 27, 2019, <http://www.michigancatastrophic.com/PressReleases/tabid/114/Default.aspx>

⁷⁷ Julie Mack, "Big majority of Michiganders want auto insurance reform, poll shows," MLive, June 9, 2017, https://www.mlive.com/news/2017/06/big_majority_of_michiganders_w.html

study conducted by researchers at the University of Michigan found auto insurance rates were unaffordable in 97% of Michigan's ZIP codes and some Detroiters spend as much as 36% of their pre-tax income on auto insurance alone.⁷⁸ Staggering numbers like these have become defining characteristics of a system which is clearly in need of significant reform and a public seemingly growing more open to the idea of reform. One of the biggest question marks surrounding public opinion on the issue of reforming no-fault has been whether or not the public will support the exchange of unlimited benefits for lower rates, especially given the rejection of two such reform proposals in the 1990s. According to Tom Shields, President of Marketing Research Group (MRG), "Michigan voters strongly support placing limits on no-fault medical coverage if it means lowering their auto insurance premiums."⁷⁹ His MRG poll found 62% support for capping the level of medical coverage in exchange for lower rates while just 23% expressed a desire to keep the current unlimited benefits.⁸⁰ This data shows Michiganders are likely willing to support a proposal that ensures both lower rates and access to high levels of medical coverage, two essential components of the MAIN Act proposal.

There is widespread bipartisan political support for reform. Since the 2018 election, Michigan now has a Democratic governor, Gretchen Whitmer, and fairly narrow Republican majorities in both the House and Senate, 58-52 and 22-16,

⁷⁸ Chad Livengood, "UM study: Auto insurance unaffordable in 97% of Michigan ZIP codes," Crain's Detroit Business, March 21, 2019, <https://www.craigslist.com/auto-insurance/um-study-auto-insurance-unaffordable-97-michigan-zip-codes>

⁷⁹ Marketing Research Group, "Michigan Poll: Michigan voters willing to trade medical benefits for lower no-fault insurance rates," MRGMI.com, April 23, 2014, <https://www.mrgmi.com/2014/04/michigan-poll-michigan-voters-willing-to-trade-medical-benefits-for-lower-no-fault-insurance-rates/>

⁸⁰ Ibid

respectively.⁸¹ A reform package supported by the major political forces in each party and branch of government would be the ideal way to fix Michigan's broken auto insurance system. Detroit Mayor Mike Duggan (D), Speaker of the House Lee Chatfield (R), Senate Majority Leader Mike Shirkey (R), and Governor Gretchen Whitmer (D) have all expressed their desire to reform the current system and achieve lower rates across the board for Michiganders.⁸² This proposal offers simple reforms which directly pursue the ultimate goal of each of these powerful political players; achieving significant universal rate reductions without severely compromising or prohibiting access to high levels of medical coverage. This proposal contains elements appealing to each side in the debate and helps both Republicans and Democrats sell the policy to their constituents. It is possible the simple and straightforward nature of this proposal would be able to bring enough supporters from both parties together to achieve the elusive reforms the public and policymakers have sought for decades. Politically, the reforms offered in this proposal would likely engender a significantly positive response from the public, boosting the status of the political players pushing for the reforms.

As previously noted, many business and insurance interests would likely favor this proposal. The Michigan chapter of the National Federation of Independent Businesses, a small business advocacy group, conducted a survey of voters in the state and found 70% said their auto insurance rates were too high and 76% supported "giving

⁸¹ Johnathon Oosting, "Michigan Republicans keep control of state House, Senate," The Detroit News, November 7, 2018, <https://www.detroitnews.com/story/news/politics/elections/2018/11/07/michigan-house-representatives-senate-control-results-winners/1825497002/>

⁸² Tim Skubick, "Skubick: No-Fault auto insurance reform efforts heat up," WLNS.com, February 13, 2019, <https://www.wlns.com/news/michigan/skubick-no-fault-auto-insurance-reform-efforts-heat-up/1779474906>

drivers the choice of buying a lower level of medical coverage in order to reduce the cost of insurance,” exactly what this proposal offers.⁸³ The Michigan Campaign Finance Network followed the money involved in the debate over auto insurance reforms in Michigan and found the issue to be one of the most lobbied in the state with \$704,795 spent over a recent five year span.⁸⁴ Their analysis found “about 63 percent of the money, \$448,530, came from those traditionally siding with proposals backed by the auto insurance industry” like the Michigan Chamber of Commerce, Michigan Farm Bureau, Michigan Association of Insurance Agents, and the Michigan Insurance Institute. These groups clearly favor reform, as capping PIP coverage would save many insurance-related businesses large amounts of money. Other business interests, like Dan Gilbert of Quicken Loans, are additionally in favor of reforms because they are concerned about the high costs limiting the talent pool available for Michigan businesses and economic growth. He has sent lobbyists, including former House Speaker Tom Leonard, to Lansing “to argue that high premiums have become an economic albatross for Michigan” and some in the medical industry “profit enormously and unjustly from this crazy law.”⁸⁵ Business leaders, insurance companies, and economic interest groups will clearly be open to reform and willing to donate significant amounts of money to campaigns, politicians, and other forces working to change the current law in favor of a system

⁸³ NFIB, “Small Business Joins Call for No-Fault Auto Reforms,” NFIB.com, February 27, 2019, <https://www.nfib.com/content/news/insurance/small-business-joins-call-for-no-fault-auto-reforms/>

⁸⁴ Craig Mauger, “Big Campaign Donors Entrenched In The Fight Over Auto Insurance Rates,” Michigan Campaign Finance Network, Accessed on April 12, 2019, <http://mcfn.org/node/6630/big-campaign-donors-entrenched-in-the-fight-over-auto-insurance-rates>

⁸⁵ Chad Livengood, “Dan Gilbert, other employers could lower employees' auto insurance costs — but nobody knows how much,” Crain’s Detroit Business, April 7, 2019, <https://www.craindetroit.com/voices-chad-livengood/dan-gilbert-other-employers-could-lower-employees-auto-insurance-costs-nobody>

which lowers rates and creates a better overall insurance and economic climate in Michigan.

Opponents

The Coalition Protecting Auto No-fault (CPAN) is a major opponent of proposed reforms which limit the generous benefits of the current unlimited system. CPAN is comprised of a number of groups with heavily vested interests in opposing meaningful reforms to Michigan's auto insurance law. However, the organization does favor some vague reforms it says would be "fair and affordable" like cracking down on fraud, stopping the use of non-driving factors in assessing rates, bringing greater transparency to the MCCA, and adopting fee schedules for medical payments.⁸⁶ However, only instituting a fee schedule for medical payments, something diametrically opposed by the Michigan Health and Hospital Association, would likely reduce some costs associated with the current system. However, it would likely not have a significant impact on the actual auto premiums drivers would pay since the high-cost unlimited lifetime benefits would still be available.⁸⁷ The rest of their proposed reforms are very vague and the impact they would have on actual rates being charged to drivers would likely be minimal without capping the mandated unlimited PIP coverage of the current law. CPAN is a large organization representing 24 medical advocacy groups and 8

⁸⁶ Autonofaultlaw.com, "Michigan Needs "Fair And Affordable" No-Fault Reform — Not Coverage Caps," Autonofaultlaw.com, Accessed on April 12, 2019, <https://autonofaultlaw.com/michigan-needs-fair-and-affordable-no-fault-reform/>

⁸⁷ Michigan Health and Hospital Association, "Michigan's Auto No-fault Insurance System," MHA.com, September 2017, <https://www.mha.org/Portals/0/Issues%20and%20Advocacy/Auto%20No-Fault/auto-no-fault-talking-points.pdf>

consumer advocacy groups, all of which are generally opposed to any reforms seeking to end the unlimited benefits of the current law, the main driving force behind the sky-high auto premiums in Michigan.

The Michigan Health and Hospital Association is another major opponent to auto insurance reform. Between 2016 and 2017, the group spent \$1 million on lobbying efforts, making the organization the 10th largest lobbying force in Michigan and an extremely influential and politically powerful force in the capitol.⁸⁸ It is opposed to reforms to the current unlimited lifetime benefits system, like fee schedules for medical services, because it is a major source of revenue for its member groups and their affiliate groups like the Association of Justice, a CPAN member. Lawyers and hospitals profit off the current system because there are no fee schedules or pricing restrictions and the “system allows lawyers who represent people in accidents to get 33 percent of their client's total medical bills as a retainer fee.”⁸⁹ Detroit Mayor Mike Duggan (D) alleged, “My friends over at DMC and Henry Ford (hospital systems) are getting paid triple their normal rates. The lawyers take a third, they still get double... So the hospitals make out, the lawyers make out and people in Michigan are paying the highest rates in America.”⁹⁰ The Mayor’s assessment is based on fact, as the current law “allows health providers to bill car insurers much more for care than health insurers pay,” a fundamental flaw in a system that offers unlimited benefits over the course of an

⁸⁸ Michigan Campaign Finance Network, “PDF: The Top 200 Lobbyists For 2017 Jan. 1-Dec. 31,” MCFN.org, Accessed on April 12, 2019, <http://mcfn.org/node/6818/pdf-the-top-200-lobbyists-for-2017-jan-1-dec-31>

⁸⁹ J.C. Reindl, “Detroit mayor sues Michigan over high no-fault auto insurance rates,” Detroit Free Press, August 23, 2018, <https://www.freep.com/story/money/2018/08/23/no-fault-auto-insurance-lawsuit-mike-duggan/1071905002/>

⁹⁰ Ibid

accident victim's lifetime.⁹¹ The fact hospitals and health institutions are permitted to underhandedly profit off the law by charging several times more for the same care and procedures they charge health insurers for is another reason the unlimited benefits system should be capped as this proposal would do. Since capping the amount of medical benefits available would help to control the artificial inflation of medical costs by hospitals and lawyers, it is an essential element to any reform package. Given this proposal would limit the amount of money available to these institutions and likely end their ability to artificially inflate their profit margins on auto accident victims, heavy political opposition from these groups should be expected.

Further highlighting the unique political landscape of the auto insurance reform fight is Oakland County Executive L. Brooks Patterson's fierce opposition to no-fault reforms. The longtime Republican head of Oakland County, one of the most politically important areas in the entire state, has opposed reforming the law for years and wields an enormous amount of political power in the state legislature. During a recent push for no-fault reform, one state representative expressed doubt he would be able to convince several Oakland County Republicans in the legislature to support his measures because, as he said, "I think L. Brooks already put the hammer down," referring to Mr. Patterson's personal lobbying of local politicians on the issue.⁹² Furthermore, Patterson has also come out against Dan Gilbert's threat to go straight to the voters with a ballot

⁹¹ David Eggert, "Senate GOP: Priority Is Cutting Michigan Car Insurance Rates," U.S. News, January 15, 2019, <https://www.usnews.com/news/best-states/michigan/articles/2019-01-15/senate-gops-top-priority-is-cutting-auto-insurance-premiums>

⁹² Johnathon Oosting, "Patterson slams Gilbert's 'arrogance' in auto insurance reform push," The Detroit News, December 19, 2018, <https://www.detroitnews.com/story/news/politics/2018/12/19/patterson-slams-gilbert-arrogance-auto-insurance-reform/2367794002/>

initiative in order to force no-fault reforms should the legislature fail to act, saying the billionaire will always have access to great medical care and his attempt to take that access away from others is “an act of arrogance.”⁹³ However, Patterson’s decades-long stay as Oakland County Executive may soon be coming to an end. On March 26th, 2019, the 80-year-old Patterson announced he was diagnosed with stage-four pancreatic cancer, would not be seeking another term, but also would not be stepping down before his current term ends in 2020.⁹⁴ This unfortunate health news signals a potentially massive political power shift in both Oakland County and the state legislature, perhaps offering a greater opportunity to push reforms through by garnering critical support from some Patterson loyalists as his influence begins to wane.

One additional political consideration should be the possibility of building political capital through achieving a significant and popular reform which has eluded policymakers for decades. As the new legislature and governor are just months into their new terms in office, each should consider this issue as possible political leverage concerning other pressing and perhaps even more divisive issues facing the state. Since the proposed auto insurance reforms here would likely benefit more traditionally Republican interests like business groups and insurance companies, Democrats could use the issue to ask for their budget priorities from the Republican-controlled legislature. For example, the debate over infrastructure and road funding has become a

⁹³ Ibid

⁹⁴ Steve Neavling, “Oakland County Executive L. Brooks Patterson diagnosed with stage 4 cancer but won't step down,” The Metro Times, March 26, 2019, <https://www.metrotimes.com/news-hits/archives/2019/03/26/oakland-county-executive-l-brooks-patterson-diagnosed-with-stage-4-cancer-but-wont-step-down>

fierce battle, with voters rejecting a ballot proposal calling for substantial tax increases to fix the state's poor roads by an 80-20 margin in 2015.⁹⁵ Now, Governor Whitmer's proposed forty-five cent gas tax increase has drawn fierce public and legislative backlash from Republican lawmakers, creating a significant problem for the Governor's office since road and infrastructure improvements were a fundamental aspect of her campaign.⁹⁶ By lending support to auto insurance reforms which would be popular with a bipartisan majority of voters despite its unpopularity with some of her biggest political backers, Governor Whitmer could use the support to leverage her budget proposal and gain the road and infrastructure funding she needs going forward. Republicans would be able to tell their constituents they were able to save them significant amounts of money on auto insurance by finally securing reforms to a broken system, while Democrats would be able to tell theirs they secured elusive and critical infrastructure improvements the state has also desperately needed for years. In this scenario, each side would work together in a bipartisan way, get significant changes to auto insurance and infrastructure funding, and both sides would have the ability to proclaim major public policy victories and promote their pragmatic solutions in their upcoming reelection campaigns in 2020 or 2022.

⁹⁵ Paul Egan and Kathleen Gray, "Michigan voters soundly reject Proposal 1 road tax plan," Detroit Free Press, May 5, 2015, <https://www.freep.com/story/news/politics/2015/05/05/angry-voters-reject-proposal-michigan-roads-await-viable-fix/26950451/>

⁹⁶ Lindsay VanHulle, "A deal to fix Michigan's roads looks to roll into summer, at least," Bridge Magazine, April 12, 2019, <https://www.bridgemi.com/public-sector/deal-fix-michigans-roads-looks-roll-summer-least>

Recommendation

I highly recommend supporting and proposing the Michigan Auto Insurance Normalization (MAIN) Act to the legislature as a sensible and responsible reform for one of Michigan's biggest policy issues. Michigan's auto insurance is the most expensive in the country by a significant margin and, while numerous factors are driving the state's high rates, the main driver is the unlimited lifetime benefit component of Michigan's no-fault law. No other state, either under a tort-based system or no-fault system, has a mandated unlimited lifetime medical benefit attached to its auto insurance law. The number of accident victims currently receiving the lifetime benefits under the law represent just 0.2% of Michigan's seven million drivers. Asking 99.8% of Michiganders to subsidize such a small number of claimants, often to the point of their own financial hardship, is irresponsible and unjust. Removing the unlimited PIP requirement by capping coverage levels will result in lower rates across the board for drivers and alleviate unnecessary financial burdens on cash-strapped Michiganders.

The strongest argument against adopting the MAIN Act is obviously the elimination of the lifetime medical benefits available under the current system. Since the creation of the Michigan Catastrophic Claims Association in 1978, more than 40,000 people severely injured in auto accidents have been taken care of under the current policy. Eliminating the current benefit level will mean future serious accident victims will have to navigate the complex channels of the legal system to recover additional benefits to the level of coverage they have selected under the new tiered system. The MAIN Act tries to alleviate this issue by lifting the restrictions on auto accident lawsuits imposed

under the current no-fault law, allowing greater ease in initiating auto accident litigation to recover damages and medical bills through the legal system. It also attempts to account for the elimination of lifetime medical benefits by allowing high level PIP coverage options drivers may choose to add to their policy. Currently, the state with the highest minimum PIP requirement outside of Michigan's unlimited requirement is New York with a minimum PIP mandate of \$50,000. The state with the highest optional PIP coverage cap is New Jersey at \$250,000. The MAIN Act allows drivers to select PIP coverage levels of \$25,000, \$50,000, \$100,000, \$200,000, or \$300,000 based upon their coverage preferences and financial needs. Notably, the highest option available bests the coverage cap in New Jersey by \$50,000. This means Michiganders will still have optional access to the highest level of PIP coverage in the nation, a purposely constructed element of the policy to ensure Michigan's drivers still have access to high levels of medical coverage which will help offset the loss of the cost-prohibitive unlimited benefit system currently in use.

By capping PIP coverage requirements, eliminating the MCCA, and still providing access to the highest level of PIP coverage in the nation, the MAIN Act is a policy worthy of passage. It will absolutely achieve the goal of reducing auto insurance rates for all Michigan drivers. It will eliminate the controversial MCCA and its high annual fee. It will provide Michigan drivers with access to the highest level of PIP available in the United States. It will continue to provide for those injured under the old system until their claims naturally terminate. Furthermore, significantly lowering rates is likely to result in the added benefit of reducing Michigan's high number of uninsured drivers—estimated

to be over twenty percent—adding another potentially positive policy outcome to this reform package. Recent polling shows the public favors comprehensive reforms which achieve serious rate reductions while protecting benefits for accident victims. The MAIN Act achieves both of those primary policy goals in a simple and fiscally responsible way.

Michigan's auto insurance has been found to be unaffordable throughout 97% of the state. Many attempts have been made to solve this pressing policy problem. Some have failed at the ballot box and some have failed at the hands of fierce lobbying efforts by powerful interest groups in the halls of the capitol. The MAIN Act can be different with the bipartisan support of Governor Whitmer and pro-reform Democrats like Detroit Mayor Mike Duggan along with pro-reform Republicans in the legislature and other positions of power. With Dan Gilbert's threatened deadline for the legislature to take action in the first six months of 2019 fast approaching, the time for a bipartisan legislative solution is now, before a corporate cash-infused ballot campaign is initiated and taken to a frustrated public for a vote. Words like unfair, unaffordable, unacceptable, and unsustainable have been used to describe Michigan's current auto insurance laws—words which seldom describe sound public policy programs. The MAIN Act offers a pragmatic political and policy solution to a decades-long problem Michiganders can no longer afford to wait for.

Curriculum Vitae

Justin Carlson is a native of Vulcan, Michigan, located in the state's Upper Peninsula. He earned an Associate in Arts degree in Liberal Arts from Bay de Noc Community College in 2012 and a Bachelor of Science degree in Political Science from Lake Superior State University in 2013. In doing so, he became the first member of his immediate family to earn a bachelor's degree. Since April of 2014, he has been working full-time as a machine operator at Boss Snowplow. In 2017, he decided to begin his graduate education in order to follow his lifelong desire for a career in public service. He aspires to use his unique knowledge, skills, and blue-collar background to build a successful career and pursue his own American Dream.